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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,369	01/30/2004	Lowell G. Steffens	24048	6537
<div>7590 02/05/2009</div> <div>William J Clemens Esq Fraser Clemens Martin & Miller LLC 28366 Kensington Lane Perrysburg, OH 43551-4163</div>				
EXAMINER				
BUTLER, MICHAEL E				
ART UNIT		PAPER NUMBER		
3653				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/768,369

Applicant(s)

STEFFENS ET AL.

Examiner

MICHAEL E. BUTLER

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-35 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 23-35 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CDC)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim(s) 23-35 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over by Johnson '401 (3122401) in view of Johnson '043 (3146043) wherein the former discloses :

(Re: cl 23) An apparatus for vending a plurality of articles, comprising:
a rotator assembly including at least three article supporting trays in a vertically stacked relationship, each of said trays having a plurality of angularly spaced storage locations, each of said storage locations being formed for releasably retaining art article to be vended and having an opening at a periphery of an associated one of said trays through which the article can pass (c6 L 34-64),
an enclosure having closed sides and a hollow interior (22; c4 L 31-71),
a door member attached to said enclosure and operable to be moved between a closed position blocking said door opening and an open position permitting access to said storage locations of said rotator assembly through said door opening (c4 L 62-72);
and an indexing assembly connected to said door member and to said rotator assembly (c8 L 18-36; c1 L 64-70),
said indexing assembly being operable to rotate said rotator assembly about the vertical axis to selectively move each of said storage locations into alignment with said door opening for removing a retained article through said door opening when said door member is in the open position while blocking access to all other ones of said storage locations through said door opening (c8 L 18-36; c1 L 64-70)
(Re: cl 24) including a locking mechanism attached to said door member and said enclosure and being operable to lock and unlock said door member (c4 L 62-72)
(Re: cl 25) wherein said locking mechanism is token-operated (c4 L 62-72)
(Re: cl 26) wherein said storage locations are each sized to retain a single propane tank in an upright position (c6 L 9-63)

(Re: cl 27) wherein adjacent ones of said storage locations of each of said trays are separated by (112 ; fig 4)

(Re: cl 29) wherein said rotator assembly includes a stop mounted at each of said storage locations at a periphery of said rotator assembly (c9 L 56-c10 L 54)

(Re: cl 30) wherein said indexing assembly includes a first arm for enabling said rotator assembly to rotate and a second arm for rotating said rotator assembly (c9 L 56-c10 L 54)

(Re: cl 31) wherein said rotator assembly has a plurality of apertures formed thereto each corresponding to one of said storage locations and said indexing assembly includes a pin for selectively engaging said apertures to prevent rotation of said rotator assembly (118 fig 2)

(Re: cl 32) wherein said rotator assembly includes a lever arm mounting said pin, said lever arm being in a normal position with said pin engaging one of said apertures when said door member is in the enclosed position and said lever arm being moved by engagement with said first arm to a released position disengaging said pin from said one of said apertures (c9 L 56-c10 L 54)

(Re: cl 33) wherein rotator assembly includes a plurality of projections, said second arm engaging one of said projections during art opening of said door member to rotate said rotator assembly (c8 L 19-42)

(Re: cl 34) Air apparatus for vending a plurality of propane tanks, comprising: a rotator assembly including at least three supporting trays in a vertically stacked relationship, each of said trays having a plurality of angularly spaced storage locations, each of said storage locations being formed for releasably retaining a propane tank to be vended and having an opening at a periphery of an associated one of said trays through which the propane tank can pass (c6 L 34-64),

an enclosure having closed sides and a hollow interior, said rotator assembly being rotatably mounted in said hollow interior for rotation of said trays about a vertical axis, said enclosure having a door opening formed in one of said sides and extending adjacent said trays (22; c4 L 31-71),

a door member attached to said enclosure and operable to be moved between a closed position blocking said door opening and an open position permitting access to said rotator assembly through said door opening (c4 L 62-72); and

an indexing assembly connected to said door member and to said rotator assembly(c8 L 18-36; c1 L 64-70),

said indexing assembly being operable to rotate said rotator assembly about the vertical axis to selectively move each of said storage locations into alignment with said door opening for removing a retained article through said

door opening when said door member is in the open position while blocking access to all other ones of said storage locations through said door opening (c8 L 18-36; c1 L 64-70)

(Re: cl 35) wherein said storage locations are each sized to retain a single standard sized propane tank in an upright position (c6 L 9-63)

Johnson '043 discloses:

(Re: cl 23) wherein each of said storage locations of each said tray is angularly offset in a horizontal direction from all other ones of said storage locations and each said opening only

partially overlapping at least two other ones of said openings in a vertical direction (top tray fig 2 offset from bottom tray);
said rotator assembly being rotatably mounted in said hollow interior for simultaneous rotation of said trays about a vertical axis, said enclosure having a door opening formed in one of said sides and extending adjacent said trays (110 fig 6; paragraph 299; 10, 40/42/44/46 fig 1)
(Re: cl 28) wherein said dividers each include a vertical beam adjacent a periphery of said rotator assembly and a horizontal beam extending from an upper portion of said vertical beam radially inwardly (34/116 ; fig 11)
(Re: cl 34) wherein each of said storage location is angularly offset in a horizontal direction from all other ones of said storage locations and each said opening only partially overlapping at least two other ones of said openings in a vertical direction (top tray fig 2 offset from bottom tray);
simultaneous rotation of said trays about a vertical axis (110 fig 6; paragraph 299; 10, 40/42/44/46 fig 1).

It would have been obvious at the time of the invention for Johnson '401 to angularly offset the storage compartments to increase the size and shape of dispensate while still making the dispensate accessible through the opening as taught by Johnson '043. It would have been obvious for at the time of the invention for Johnson '401 to substitute the vertical rods with beams to simplify fabrication as taught by Johnson '043.

Response to Amendments/Arguments

3. The applicant's arguments have been fully considered but they are unpersuasive in overcoming the rejections to Johnson '401 in view of Johnson '043.

Johnson 401 discloses a large plurality of trays in the rotor assembly. Johnson'043 discloses the moving plural trays simultaneously and having the trays offset angularly. The combined teachings of Johnson's two references teach that they would have predictable results and have a predictable expectation of success.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M. E. B./

Examiner, Art Unit 3653

/Patrick H. Mackey/

Supervisory Patent Examiner, Art Unit 3653